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10 WHOLE FOODS MARKET, INC.,
11 GROUP LONG TERM DISABILITY PLAN

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19 Attorneys for Plaintiff MAYDA RIGGS-NIX

20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA

22 MAYDA E. RIGGS-NIX,

23 Plaintiff,

24 vs.

25 WHOLE FOODS MARKET, INC. GROUP
26 LONG TERM DISABILITY PLAN and
27 DOES 1 through 50, inclusive,

28 Defendant.

Case No.: 1-07-1352 WHA

**STIPULATED REQUEST FOR ORDER
CHANGING TIME; PROPOSED ORDER**

STIPULATED REQUEST FOR ORDER CHANGING TIME; PROPOSED ORDER

Case No.: 1-07-1352 WHA

1 Pursuant to Local Rule 6-2, defendant Whole Foods Market, Inc., Long Term Disability
2 Plan ("defendant" or "the plan") and plaintiff Mayda Riggs-Nix ("plaintiff"), by and through
3 their respective counsel, submit this stipulated request for an order changing time.

4 **RECITALS**

5 1. On July 5, 2007, the Court issued its Case Management Order. The Order
6 provided, *inter alia*, that all initial disclosures must be completed by July 20, 2007. The order
7 also required defendant to file the "administrative record" and its motion for summary judgment
8 by August 30, 2007.

9 2. Defendant has not received plaintiff's initial disclosures.

10 3. On August 15, 2007, counsel for defendant sent an email to plaintiff's counsel
11 inquiring into the status of plaintiff's initial disclosures and suggesting the parties agree to move
12 summary judgment deadline a month. Defense counsel did not receive a reply to the email.

13 4. On August 20, 2007, defense counsel called plaintiff's counsel and left a
14 voicemail inquiring into the status of plaintiff's initial disclosures and suggesting the parties
15 stipulate to move the deadline for the motion for summary judgment. Defense counsel did not
16 hear back from him.

17 5. On August 21, 2007, defense counsel called plaintiff's counsel again and left
18 another voicemail about the disclosures and the motion deadline. Defense counsel advised
19 plaintiff's that, if he did not hear back from him, defense counsel would file a request for an
20 extension.

21 6. Defense counsel did not hear back from plaintiff's counsel. Therefore, he filed a
22 Motion to Enlarge Time on August 22, 2007.

23 7. After receiving defendant's motion, plaintiff's counsel called and conferred with
24 defense counsel on August 23, 2007. Plaintiff's counsel explained that he had been out of town
25 and therefore had not responded to defense counsel's communications. Plaintiff's counsel also
26 explained that he did not send disclosures because he believed plaintiff would not have anything
27 to disclose that defendant would not already have (i.e., records in the claim file or appeal
28 documents). Defense counsel explained his reason for wanting to be able to compare the parties'

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STIPULATED REQUEST FOR ORDER CHANGING TIME; ~~PROPOSED~~ ORDER

1 respective documents, including but not limited to ensuring that the administrative record is
2 complete and accurate.

3 8. Counsel have agreed that plaintiff will re-copy and send to defense counsel
4 plaintiff's disclosures including all claim/appeal documents in their files.

5 9. Defendant will need time to receive, review, compare and analyze plaintiff's
6 disclosures and documents in advance of filing the motion for summary judgment.

7 10. Plaintiff's counsel has no objection to an enlargement of time to enable this to
8 occur.

9 WHEREFORE, the parties stipulate to and request an order as follows:

10 1. That the deadline for defendant's filing of the summary judgment be extended
11 from the current deadline of August 30, 2007 to **September 27, 2007** (or another later date that
12 is convenient to the Court), to be heard on a 35-day track with opposition, any request for
13 discovery, and reply as previously ordered.

14 2. That the Case Management Conference set for November 8, 2007, at 11:00 a.m.,
15 be re-schedule to accommodate the new briefing schedule on the motion for summary judgment.

16 **IT IS SO STIPULATED.**

17 I

Dated: August 23, 2007

KELLY, HERLIHY & KLEIN LLP

19 By /s/ Thomas K. Hockel

Thomas K. Hockel

Attorneys for Defendant

20 WHOLE FOODS MARKET, INC., LONG
21 TERM DISABILITY PLAN

23 Dated: August 23, 2007

TEAL & MONTGOMERY

25 By /s/ Michael S. Henderson

Michael S. Henderson

Attorneys for Plaintiff

26 MAYDA RIGGS-NIX
27
28

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ORDER

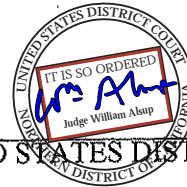
Having reviewed the parties' Stipulated Request, the Court hereby orders the following:

1. The deadline for defendant's filing of the summary judgment be extended from the current deadline of August 30, 2007 to **September 27, 2007**, to be heard on a 35-day track with opposition, any request for discovery, and reply as previously ordered.

2. The Case Management Conference set for November 8, 2007, at 11:00 a.m., is hereby continued to December 20, 2007 at 11:00 a.m. No further extensions will be granted.

IT IS SO ORDERED.

Dated: August 27, 2007



UNITED STATES DISTRICT JUDGE